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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,134	10/27/2003	Wilbur Keith Moffatt	913/40148A	3238

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CHICAGO, IL 60603

EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,134

Applicant(s)

MOFFATT, WILBUR KEITH

Examiner

Ernesto Garcia

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election and Restrictions

Claims 4 and 5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the election filed on 5/17/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. The preamble clearly indicated that the subcombination of a "retainer assembly" is being claimed with the functional recitation of the "retainer assembly" being used "for retaining at least one inner pole of an extensible and

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retractable pole assembly within an outer pole of the extensible and retractable pole assembly when the at least one inner pole is retracted within the outer pole". However, the body of the claim positively recites "the outer pole", e.g., "a third section positioned around the outer pole which is fastened to the second portions of the first and second sections" (lines 9-10), which indicates the claims as being drawn to a combination of the "retainer assembly" and the "outer pole". Therefore, applicant must clarify what the claims are intended to be drawn to, i.e., either the "retainer assembly" alone or in combination with the "outer pole", and present the claims with the language which is consistent with the invention. For purposes of examination, the examiner has considered the assembly in combination with an outer pole.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al., 4,976,371 (see marked-up attachment), in view of Coulter et al., 3,893,725.

Regarding claim 1, Wise et al. disclose, in Figures 1 and 2, a retainer assembly comprising a first section **A1**, a second section **A4**, a third section **24**, and an outer pole **12**. The first section **A1** has a first portion **A2** and a second portion **30**. The second section **A4** has a first portion **A5** and a second portion **36**. The third section **24** is positioned around the outer pole **12** which is fastened to the second portion **30** of the first section **A1** and the second portion **36** of the second section **A4**.

However, Wise et al., fail to disclose the first portion **A2** of the first section **A1** and the first portion **A5** of the second section **A4** able of fastening to one another across an open end of the outer pole to retain at least one inner pole within the outer pole. Coulter et al. teach a first portion **3A** of a first section **1A** and a first portion **3B** of the second section **1B** able of fastening to one another across an open end of an outer pole **10** to unfasten the retainer assembly from an open end of the outer pole instead from a side as taught by Wise et al. Therefore, as taught by Coulter et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wise et al. to be able to fasten the first portion of the first section with that of the first portion of the second section across an open end of the outer pole versus from the side of the outer pole.

Regarding claim 2, the first section **A1**, the second section **A4**, and the third section **24** are at least partially formed of hook and loop fastener material.

Allowable Subject Matter

Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 3, the prior art of record does not disclose or suggest a ring section connected to an open end of an outer pole and having a pair of slots provided therethrough.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 9:30-6:00. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. Any inquiry of a

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general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.G.

June 9, 2004

Attachment: one marked-up copy of Wise et al., 4,976,371.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

4,976,371

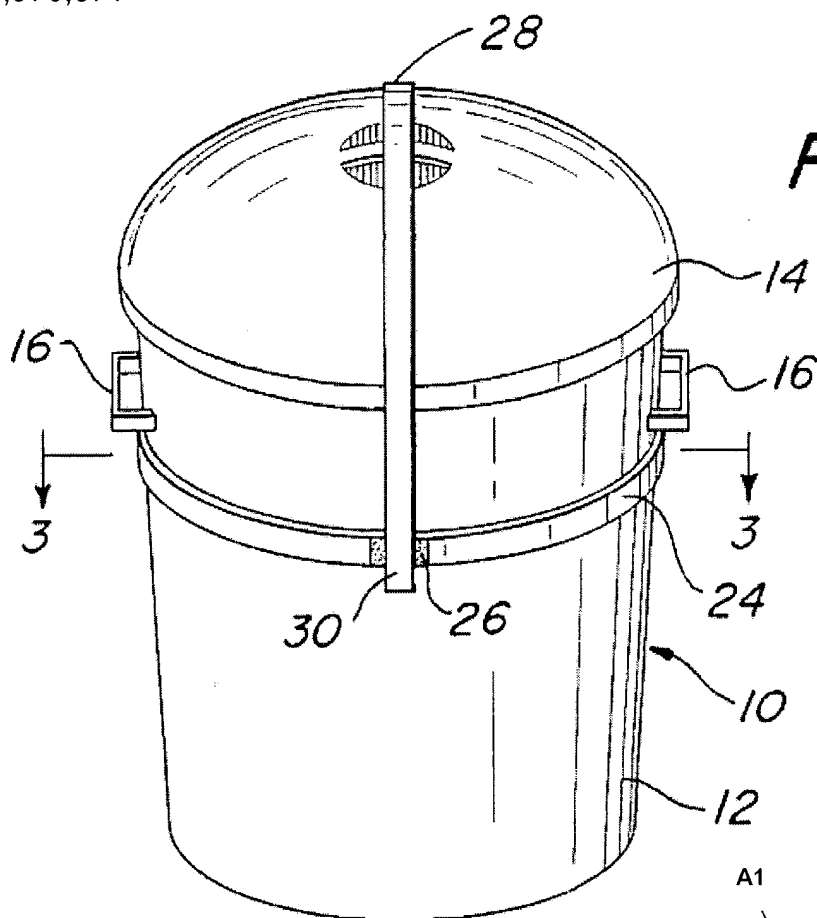


FIG. 1

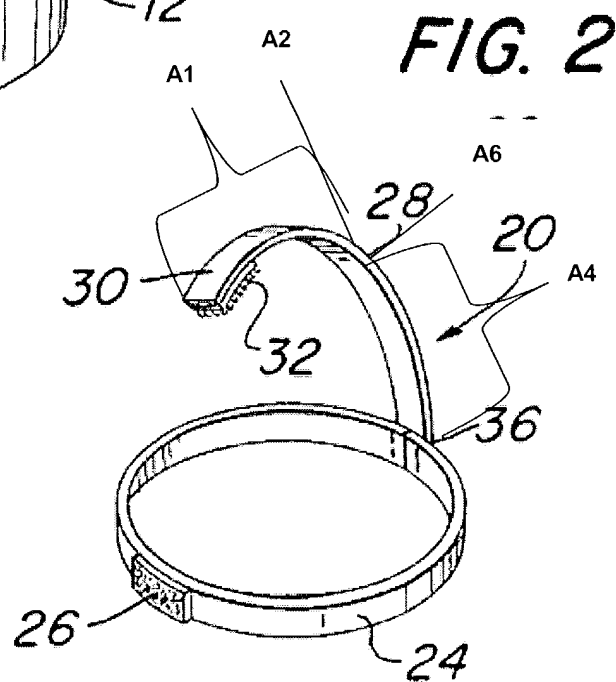


FIG. 2